

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH PROUT,	:	CIVIL ACTION
	:	
Petitioner,	:	NO. 07-04202
	:	
v.	:	
	:	
VARNER,	:	
	:	
Respondent.	:	

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JOSEPH PROUT,	:	CIVIL ACTION
	:	
Petitioner,	:	NO. 05-04905
	:	
v.	:	
	:	
COMMONWEALTH, et al.,	:	
	:	
Respondents.	:	

**ORDER**

AND NOW, this 5th day of December, 2007, upon consideration of Respondents' Motion for Reconsideration of Order Opening New Civil Action or, Alternatively, Summary Dismissal (Civ. Action No. 07-04202, Doc. No. 3; Civ. Action No. 05-04905, Doc. No. 26), and Petitioner Joseph Prout's Response in opposition thereto, it is hereby ORDERED that the motion for reconsideration is DENIED and the motion for summary dismissal is DENIED WITHOUT PREJUDICE to its being re-filed with the United States Magistrate Judge to whom this matter is referred for Report and Recommendation. In the Report and Recommendation, the United States Magistrate Judge will address whether Petitioner's Motion for Equitable Relief in the Exercise of this Court's Inherent Article III Powers and/or Relief from Judgment (Civ. Action No. 07-04202, Doc. No. 1; Civ. Action No. 05-04905, Doc. No. 24) is properly and timely filed pursuant to

Rule 60(b) of the Federal Rules of Civil Procedure and, as to the merits of Petitioner's claims under Rule 60(b), whether the denial of Petitioner's habeas petition as time-barred was in error.

This Order is not to be construed as a determination by the court on the merits of Petitioner's underlying Motion.

BY THE COURT:

S/ James T. Giles

J.